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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,855	09/04/2003	Nicolas C. Rivron	2007-3569.OR1	8584
22476	7590	03/31/2009	EXAMINER	
HAUGEN LAW FIRM SUITE 1130 - TCF TOWER 121 SOUTH EIGHTH STREET MINNEAPOLIS, MN 55402			PELLEGRINO, BRIAN E	
ART UNIT	PAPER NUMBER			
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: NICOLAS C. RIVRON, PAUL V. TRESCONY,
and MICHAEL F. WOLF

Application No. 10/656,855
Technology Center 3700

Mailed: March 31, 2009

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 18, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

ACKNOWLEDGMENT OF REPLY BRIEF

On February 8, 2008, the examiner mailed a communication acknowledging receipt of Appellants' Reply Brief, dated November 13, 2007. A review of the Response to Reply Brief reveals that the examiner did not provide proper acknowledgment. The comments made by the examiner would constitute being a Supplemental Examiner's Answer.

The Examiner's response to Reply Brief as set forth in MPEP § 1208, which states:

(1) After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

(2) A supplemental examiner's answer responding to a reply brief may not include a new ground of rejection.

(b) If a supplemental examiner's answer is furnished by the examiner, appellant may file another reply brief under § 41.41 to any supplemental examiner's answer within two months from the date of the supplemental examiner's answer.

A review of the Response to Reply Brief reveals that the examiner did not provide proper approval.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) vacate the examiner Acknowledgment to the Reply Brief mailed February 8, 2008;

- 2) proper acknowledgment of the Reply Brief is required and/or appropriate consideration of the Reply Brief dated November 13, 2007;
- 3) acquiring approval for any Supplemental Examiner's Answer in response to the Reply Brief mailed November 13, 2007, if appropriate; and
- 4) for such further action as may be deemed appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/MTV/lb

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